S.B.Civil Writ Petition NO.3298/2003

M/s. Shanti Lal Surendra Kumar

vs

State of Rajasthan & Ors

DATE OF ORDER : - 9.2.2005

HON'BLE MR. PRAKASH TATIA,J.

Mr. D.C.Panwar,for the petitioner.
Mr. L.R.Upadhayay, Dy.GA, for the respondent.

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Heard learned counsel for the parties.

Brief facts of the case are that the wheat weighing 138.60 qutls. were seized from the shop of the petitioner on 5th April, 1976. A criminal case was lodged against the petitioner and in that case he was acquitted by the court on 4th June, 1987. The acquittal is final. It appears that the proceedings under Section 6A of the Essential Commodities Act, 1955 was also initiated against the petitioner. In that proceedings, the learned Addl. Collector, Jodhpur observed that the action should have been taken with respect to the seized commodities immediately, but now more than 3 years have passed, therefore, there is no need to pass any order for auctioning the seized goods. However,

the learned Addl. Collector, Jodhpur observed that at this stage, the goods cannot be released and the goods may be disposed of after the decision of the criminal case. The copy of the order passed by the learned Addl. Collector, Jodhpur dated 29th March, 1979 is placed on record as Annex.1. The petitioner submitted an application before the Addl. Collector, Jodhpur after his acquittal for release of goods or for making payment of the cost of the goods. The learned Addl. Collector, Jodhpur observed that since the order has been passed on 29th Oct., 1979 in this matter, therefore, there is no need to pass any further order.

The petitioner's grievance is that despite the fact that the District Collector is under obligation to pass appropriate order under Section 6A of the Act of 1955 in relation to the seized essential commodities, which includes its seizure, its disposal and before that about the custody of the seized goods. As per sub-clause (c) of sub-section (3) of Section 6A of the Act of 1955 when the prosecution terminates in favour of the accused, the necessary order of the payment or delivery of the seized goods as the case may be required to be passed by the Collector. It is also submitted that as per sub-section (2) of Section 6A of the Act of 1955, the procedure has been given how the property will be disposed of or amount will be paid in case of acquittal of the accused charged with the offence.

A bare reading of the order dated 29th March, 1979 clearly reveals that by that order, the Addl. Collector, Jodhpur specifically ordered that there is no need to pass any order about the release of the goods under Section 6A. Therefore, the application filed under Section 6A itself has not been decided by the order dated 29th Oct., 1979 and decision has been offered till the decision by the court in criminal case. When this fact was brought to the knowledge of the learned Addl. Collector, he did not pass any order on assumption that the order has been passed on 29th Oct., 1979 is a final order under Section 6A of the Act of 1955 and the learned Addl. Collector directed the DSO to take appropriate steps. Since the application under Section 6A itself has not been decided by the learned Addl. Collector, therefore, he could not have issue direction to the DSO, Jodhpur for taking steps with respect to the seized property.

Therefore, the writ petition of the petitioner deserves to be allowed, hence, allowed. The order of the Addl. District Collector dated 15th July, 1994 is set aside. The learned Addl. Collector, Jodhpur is directed to decide the application under Section 6A of the Essential Commodities Act, 1955 in accordance with law about the disposal of the seized property in the light of the provisions made under Section 6A and rules made thereunder. Since the matter is very old one, therefore, the learned Addl. Collector, Jodhpur is directed to decide the application

and pass appropriate reasoned order within a period of two months from the date of furnishing the certified copy of this order by the petitioner before the Addl. Collector, Jodhpur.

(Prakash Tatia), J.

c.p.goyal/-